Dear Mrs. Chaney,

Thank you for your time during our telephone conversation on Thursday, November 29, 2007. During the conversation, I expressed to you my concerns regarding the questionable strategy adopted by the examiner, Viren Thakur, in prosecuting our Application (No. 10/679,714). It is our intention to appeal the examiner final decision for rejecting the application with the Board of Appeal and if necessary the Supreme Court. However, you wisely suggested to me to send you a summary of my concerns hoping you can resolve the conflict and, therefore there will be no need to go further. I'll really appreciate this opportunity and thank you so much for your understanding.

The Office Action based its case of obviousness on 22 references, 13 of which were abandoned by the Office action in prior correspondence , and the other remaining 9 references including a conversation taking from an internet chat room are still active: Levy, Sidney (US No 4,568,643); Russel Balwin Robert (US No 2,744, 017); Erway, Dale E (US No 5,750,165); Hilton et al. (US No 4,140,801); Oreste Scalise (US no 2,721,802); Champagnat, Alfred., et al. (US No 3,193,390); Siegle, Jack (US No 3,833,737); Catalogue of Bacteria and Phages (18th Edition, 1992), Yeast Growth Medium (Internet Chatting). As discussed in detail in our response to the last Office Action that was mailed to us on 10/18/2007, the Office Action was not treating the references in an objective, rational and honest manner. In fact, the Office Action was twisting facts, misconstruing references, using hindsight, reconstructing inventions, adding hypothetical inventive steps that were not reported in the references, disregarding the facts in the references that work for our case and just considering the information that the Office Action has conveniently and falsely altered to work against the claimed invention, making false statements on behalf of the inventors of the prior art, fabricating evidence and references that do not even exist. The Office Action's strategy in prosecuting our Application is reprehensible, unacceptable, misleading, and false and constitutes a major threat for the future of science and innovation. The examples described below will give you a better understanding of the Office Action deceptive strategy.

The references Yeast Growth Medium and also the Catalogue of Bacteria and Phages never used dry yeast extract as the sole fermentation aid for yeast and bacterial fermentation; however, their growth media comprised dry yeast extract and other ingredients such as dextrose, skim milk and others which are well known acrylamide precursors. Therefore, they teach against the teachings of the claimed invention. Unfortunately, the Office Action was intentionally very selective and consistently failed to consider the acrylamide precursors additives recommended by these two references. It just reported the use of dry yeast extract in order to consider these references as prior art against the claimed invention. The same Office Action strategy was used with Champagnat, who used a growth medium comprising yeast extract, minerals and paraffinic hydrocarbons. Again, the Office Action was selective and ignored the paraffinic hydrocarbons and minerals and just reported yeast extract only in order to hold Champagnat's invention as a prior art against the claimed invention.

Levy describes a process that is completely irrelevant (the mechanics, the microorganisms used, the fermentation aid, the growth medium and the apparatus) to the claimed invention. The re-circulation medium of Levy is completely different than the claimed invention.

The Office Action reconstructed Hilton et al.'s invention based on hindsight and added a hypothetical washing step for the fermented mashed potato to get rid of the yeast flavor that Hilton et al. did not use in their invention because it defies logics. And since Hilton et al. described a process to reduce browning in potato upon frying, then the Office Action assumed the role of inventors and falsely concluded that reduction of browning inhibits acrylamide formation. However, in order to make the case stronger, the Office Action even went further and made a bigger claim that blanching reduces the formation of acrylamide in food products without citing or providing the reference. No one knew or was aware of this claim at the time the invention was made but the Office Action.

Again the Office Action used its deceptive approach and misconstrued Scalise's invention and conveniently considered the pH of Scalise's powder (pH 5-7) the pH of the fermentation medium, which is not true. Then the Office Action used its misconstrued and false conclusion as a prior art against the claimed invention.

With respect to Baldwin's invention, again it was misconstrued by the Office Action; however, in the last Office Action, mailed on 10/18/2007, the Office Action has recanted its previous misconstrued quote about the teaching of Baldwin in order to hold it as a relevant prior art to the claimed invention. And the new Office Action strategy stated that "Baldwin teaches that it has been known in the art to use lactic acid bacteria fermentation for the similar purpose as that of Hilton et al., which is to reduce browning." Again this is not relevant to the claimed invention, because the reduction in browning does not inhibit the formation of acrylamide as the Office Action claimed.

The Office Action has misconstrued Erway's invention and twisted the facts reported by Erway. Erway provided a direct evidence that the utilization of GDL (Glucono delta-lactone) as the acid in the blanch water can lower the potato pulp pH levels in ranges of 5.7 to 4.7 which in itself can have an adversarial effect on undesirable microbial growth. Using this fact as is cannot be held by the Office Action against the claimed invention as prior art. However, the Office Action twisted this fact and fabricated a new evidence which reads:"Although applicant states that control of the pH cannot be achieved by lactic acid bacteria alone, it is respectfully asserted that Erway provides a direct teaching of a change in the pH to between 4.7 and 5.7 as a result of the lactic acid fermentation."

Another example of fabrication of references and evidence by the Office Action were illustrated in prior Offices Action. The Office Action misconstrued and falsely claimed that "Christ et al. (US 4293655) Column 7, Lines 51 to Column 8, Line 5" as further evidence that it was known in the art to provide a fermentation process comprising recirculation of a fermentation and a sieves (Figure 1, item 11) to filter the exiting medium." In fact, there is no column 7 or column 8 in the US Patent No. 4293655, it just consists of 6 columns. The Office Action has fabricated this evidence. Moreover, the

Office Action misconstrued item 11 in Figure 1 as "a sieves." In fact, Christ et al. teach that item 11 in Figure 1 is not "a sieves", it's a valve or spigot. "A valve or spigot 11 is provided for controlling the rate at which the liquid is removed" (Column 3, Lines 33-35). The Office Action intentionally twisted these facts in order to consider Chris et al. a prior art.

This is the prior art that the Office Action has used and altered to prosecute our application. When the facts in the same reference are for the best interest of the applicant, the Office Action intentionally discarded them and selectively picked whatever works against the claimed invention even if it contradicts the teaching of the reference. However, when the Office Action could not apply this scenario and take things out of context, it used facts twisting and evidence fabrication approach to make its case. And in desperate situation, the Office Action rejected the applicant's argument claiming that the argument was considered but not deemed persuasive without offering a valid explanation. This deceptive strategy contradicts the principal purpose of the Patent Act and Article I, Section 8, Clause 8 of the Constitution which is to promote the "useful Arts" by encouraging the practical exercise of human ingenuity. It is unacceptable and unfair to science and inventors.

Aziz C. Awad
December 17, 2007